# Institute for Economic and Social Reforms

**Best Practices Pamphlet**

**BEST PRACTICES (English Summary)**

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## GROWING IMPORTANCE OF BUSINESS SECTOR AND CORPORATE GOVERNANCE IN SLOVAKIA

In the late 80-ties/early 90-ties practically almost 100% of GDP was created by the sector fully controlled by the state. Moreover, the whole local and national legal and regulatory framework was set up by the same body represented by the central government. Ten years later, more than 80 per cent of GDP is being produced by the private sector and the rules of the game is heavily influenced by multinational companies either directly or through international organizations. Taking into account the fact that the central government has delegated some powers to municipalities and international bodies, one should probably move attention from it towards business sector. Namely, that is becoming the main factor affecting economic performance of the country, as well as the quality of life there. So far, the most of the attention of both foreign and local experts has been focused on functioning of the public sector. Although it is still very important matter, more care deserves the area determined by the links connecting all subjects influencing business environment, so called Corporate Governance (CG) The main of them are managers, owners, suppliers, employees, customers, state, municipalities, general public.

> The proper governance of companies will become as crucial to the world economy as the proper governing of countries.
> James D. Wolfensohn, President of the World Bank

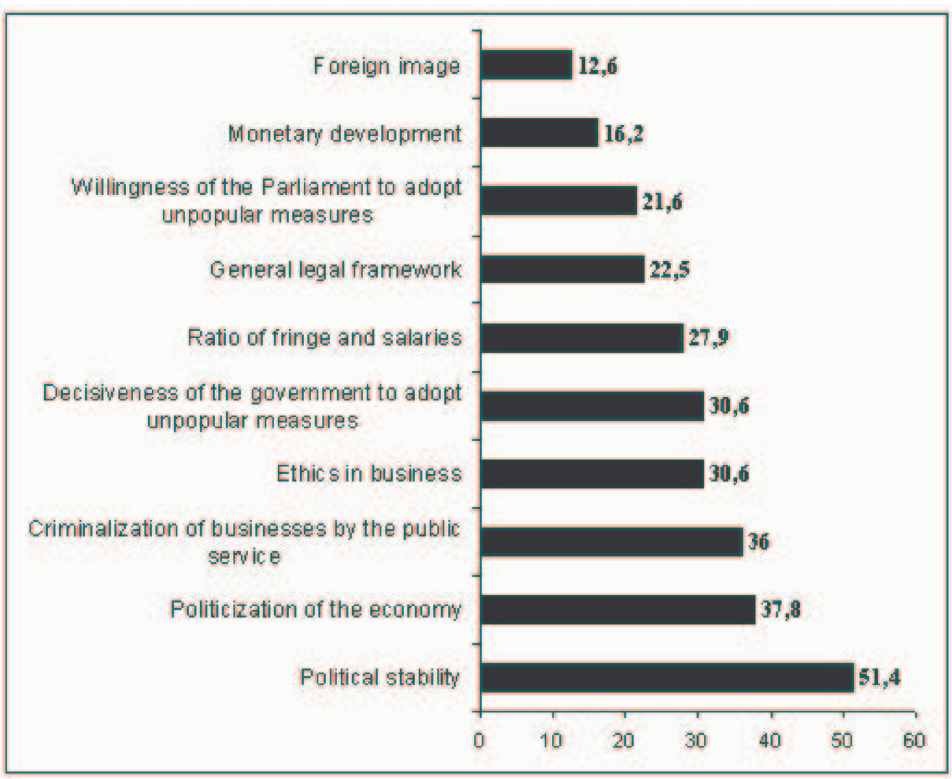
Traditionally, the respective attention was driven to internal issues of firms. At the time being, the external one is becoming more frequently discussed, as the concept of stakeholders is becoming more recognized. As an example illustrating the necessity to expand the focus on corporate governance beyond the framework of firms can be so called tunneling of businesses.32 The recent cases of Chirana-Prema Stará Turá, Oravské ferozliatinové závody, a.s., Pratex, a.s. Čadca represent only marginal sample of the widely spread phenomenon in Slovakia. Hunger strike of the former employees of Pratex Čadca showed clearly how such failure in corporate governance may influence not only interests of shareholders, managers, or employees, but also local community (almost entirely without other access to regular income), and the whole country. Namely, the information has been spread among potential foreign investors, international organizations, rating agencies, etc.

> Here, in Slovakia they allow you to steal a lot, but they never allow you to earn a lot.
> T. Janovic

Another negative consequence of the corporate governance failure on the whole society is high and growing indebtedness of commercial sector. Currently, the total debt among firms exceeds SK 400 bn, which represents doubled state budget income or 50% of GDP. This not only undermines possibilities of businesses to make profits, pay good salaries and dividends, but also discourages foreign business partner and investors to come to the country. Furthermore, it significantly diminishes the integration chances of the country.

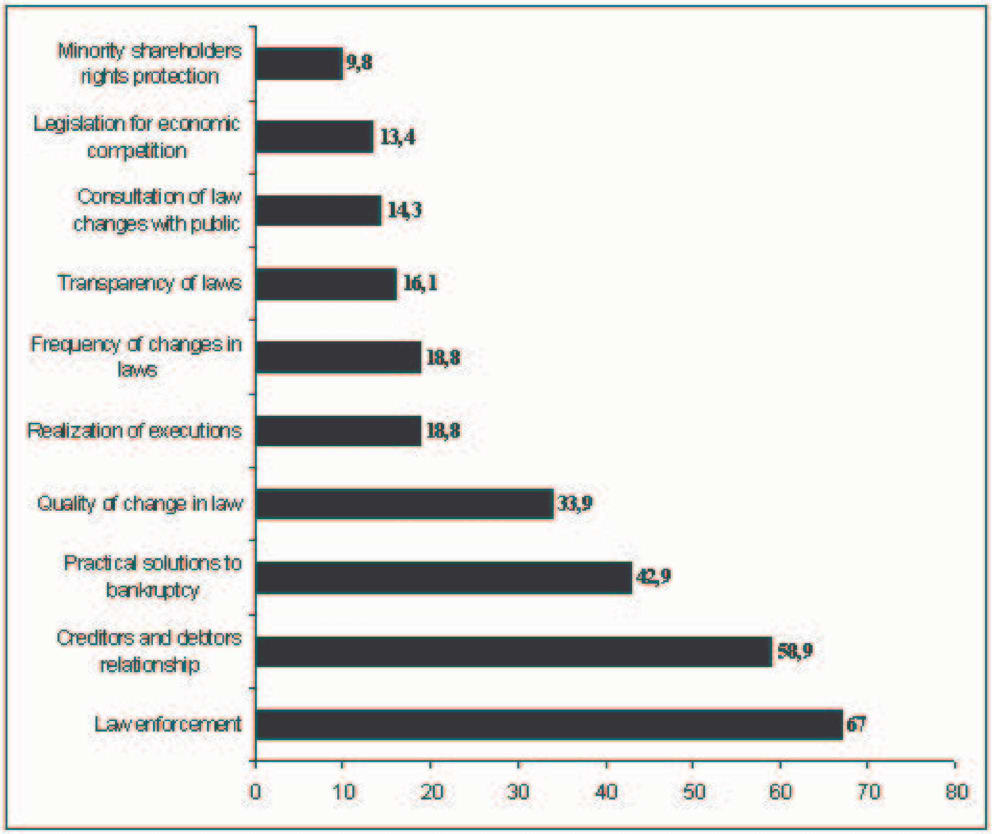
The survey organized in Slovakia in May 2000 showed clearly that, according to the Slovak economic elite, the most important problems of the local economy are linked to corporate governance issues:33

The main problem of the general business conditions: (%)



Similarly, the next set of questions linked to legislation and law exclusively proves the same finding:

The main problems of the legislation and law: (%)




Also the most negative changes during the last year have been related to the corporate governance issues:

| No. | Change | Average evaluation | Per cent of negative attitude |
|---|---|---|---|
| 1. | Lack of domestic capital | 3,96 | 61 |
| 2. | Access to credits | 3,87 | 71 |
| 3. | Clientelism and protectionism | 3,73 | 54 |
| 4. | Inflexible housing system | 3,68 | 50 |
| 5. | Creditors and debtors relations | 3,66 | 53 |
| 6. | Politicization of economy | 3,65 | 58 |
| 7. | Administration of taxes | 3,61 | 50,4 |
| 8. | Criminalization of businesses | 3,58 | 48,7 |

Based on the strong and gradually growing impact of corporate governance on the fate of the society and based on the respective awareness of elite, one can claim that the focus of the general public and experts should move to searching for the best CG practices. Taking into account the broad and relatively heterogeneous scope of the concept, it should be approached from two angels: Particular subjects of the external environment to a firm may, and very often are, more integral part of it than some subjects operating within traditional firm's borders. Internally, the relations among a firm's subjects have their own features deserving special attention. Ronald Coase's definition of a firm from 1937[34] is, of course, still valid. Nevertheless, with the dramatic development of communication technologies, with globalization, privatization, better access to information and enhancement of laws, networking among various subjects is accelerating. Thus the border between external and internal environment to a firm is becoming much more flexible than before.

*Borders among people, regions, states, as well as firms become flexible.*

**EXTERNAL ENVIRONMENT**

External subjects to a firm as, for example, state, municipality, loyal customers, traditional suppliers, etc., play often very important roles in its development. It is deeply in their natural interest that the firm undertakes its activities successfully. In fact, they become dependent of the firm's fate, they become its stakeholders. That is the main reason, why special attention should be paid to the issues linked to relations among them, if the system of corporate governance in a country is to be optimized.

In Slovakia, as well as in many transitional countries, the state, as a stakeholder should in close co-operation with businesses play much more active role in improvement of entrepreneurial environment. Particular attention should still be paid to the process of firm creation. The whole operation is not only complicated by red tape, but does not comply with the recent trends in the development of communication technologies. Ultimately, the business register should be placed on Internet with free access and the registration should be allowed through the net, as well. Also, the need for foreign investment and other globalization trends have not been reflected in the local legislation. For example the barriers to do business for foreigners are still relatively high. One can mention complicated application process for getting an approval for long-term residence, or the absence of automatic residence prolongation possibility. The respective law covering corporate activities has its own loopholes. Among them, the most important are non-transparent board activities (EU respective Directives should be applied, at least, including their enforcement), the absence of clearly defined board's duty to act in the interest of a corporation, as well as its legal responsibility and accountability. Derivative and individual appeals are not incorporated in the law appropriately, minority shareholders' rights are not protected optimally, leaving a corporation without liquidation is not covered by law. Transparency of business activities is not secured enough. As a positive example, one can mention laws valid in the USA.[35] The first type of law is the incorporation statute. Every company in the United States must file a basic document in one or more of our 50 states (or the District of Columbia) that establishes that company. Every state has its own laws and procedures on how this is done, but the same general principles are used. The document contains the name of the company, the names of its original directors or persons who incorporated the company, and a registered agent who can be served with papers in the event someone wants to begin legal proceedings against that company. Some states also require that the names of the officers of the company also be listed. This document is called the "Articles of Incorporation" and it must be renewed each year. If there are any changes in the names of the officers, directors, or registered agent, those changes must be filed as well. The Articles of Incorporation and the annual statements that update the Articles are filed in one or more states and are available to the public. Usually, a small fee is charged to search for and copy the document and send to whoever requests it.

Another type of law is designed to get important information to the public – the securities laws. All companies in the United States may issue stock. Often, very small companies, like family-owned businesses, do not actually issue stock, even though they may do so. However, when companies need to raise capital they often try to sell stock to large groups of people or to the public. Before they may do so, U.S. federal securities laws require that these companies make available important information about the company, its finances, its officers and directors, the industry in which it competes, and even how the global and U.S. economies may impact on the company.

The laws and rules that govern when, how and what information publicly-traded companies disclose in the United States are derived from a simple and straightforward concept: all investors, whether large institutions (like insurance companies, pension funds and mutual funds) or private individuals, should have access to certain basic facts about an investment prior to buying it. To achieve this, the Securities and Exchange Commission ("SEC"), an independent federal regulatory agency requires publicly-traded companies to disclose meaningful financial and other information to the public. The disclosure of this information provides a common pool of knowledge for all investors to use to judge for themselves if a company's securities are a good investment. Only through the steady flow of timely, comprehensive and accurate information can people make sound investment decisions. Collateral law is clearly underdeveloped. For example a central register of movable property is absolutely missing.

Business partners has to have a deep interest in improvement of their relationship. As it was mentioned above, the payment discipline among them is very low. Nevertheless, the bankruptcy law as a main rectification tool has never been proposed or promoted by business community. Without understanding the role of suppliers and customers as stakeholders and their responsibility for creation a proper legal framework, the law will hardly smooth the bankruptcy procedure.

Another, non-traditional stakeholder is international community. Only recently, it came with proposals to harmonize various parameters of business activities. For example, International Accounting Standards Committee (IASC) has proposed a Standards Development Committee (SDC) to undertake most of the work in standard creation. In this field, strong trend is visible: Anglo-American standards are being increasingly adopted by continental Europe:[36] Among the implications one can find greater board independence, smaller boards, and upward pressure on director remuneration.

Different stakeholders in the Czech Republic and Slovakia joined their forces to promote more transparency in business. One of the measures to promote transparency is organization of competition for the best annual report. Another one is the EBR (European Business Register)[37], which creates a network of publicly available information on businesses. In Poland, the Camber of Commerce started to organize Fair Play competition searching for the fairest firms, which promotes ethics in business.

## INTERNAL ASPECTS

If the market was absolutely perfect/costs less, if there were no transaction costs, there would be no reason to create firms. Only individuals would co-operate among each other to reach optimal output. However, the price for using the market, transaction costs, practically force some of the individuals to merge and build firms. Although the main subject to research should be contract[38] regardless of whether the particular subjects are located out outside a firm, one should put particular stress on internal ones. Namely, the existence of firms proves that there is still special need to isolate internal subjects from external environment, despite wide development of networking structures.

The modern trend of developing corporate governance guidelines and codes of best practice began in the early 1990's in the United Kingdom, the United States and Canada in response to problems in the corporate performance of leading companies, the perceived lack of effective board oversight that contributed to those performance problems, and pressure for change from institutional investors. The Cadbury Report in the U.K., the General Motors Board of Directors Guidelines in the U.S., and the Dey Report in Canada have each proved influential sources for other guideline and code efforts.

Over the past decade, governance guidelines and codes have issued from stock exchanges, corporations, institutional investors, and associations of directors and corporate managers (the most influential probably are OECD Principles of Corporate Governance[39]). Compliance with these governance recommendations is generally not mandated by law, although the codes linked to stock exchanges may have a coercive effect. For example, listed companies on the London and Toronto Stock Exchanges need not follow the recommendations of the Cadbury Report (as amended in the Combined Code) and the Dey Report, but they must disclose whether they follow the recommendations in those documents and must provide an explanation concerning divergent practices. Such disclosure requirements exert a significant pressure for compliance. In contrast, the guidelines issued by associations of directors, corporate managers and individual companies tend to be wholly voluntary. For example, the General Motors Board Guidelines simply reflect an individual board's efforts to improve its own governance capacity. Such guidelines can have wide influence, however. For example, in the case of the General Motors Guidelines, institutional investors encouraged other companies to adopt similar guidelines. In developing nations, both voluntary guidelines and more coercive codes of best practice have issued as well. For example, both the Code of Best Practices issued by the Brazilian Institute of Corporate Directors and the Code of Corporate Governance issued by the Corporate Governance Committee of the Mexican Business Coordinating Counsel are wholly aspirational and not linked to any listing requirements. Similarly, the Confederation of Indian Industry Code and the Stock Exchange of Thailand Code are designed to build awareness within the corporate sector of governance best practice, but are not, at this time, linked to stock exchange listing requirements. In contrast, Malaysia’s Code on Corporate Governance, the Code of Best Practice issued by the Hong Kong Stock Exchange, and South Africa's King Commission Report on Corporate Governance, all contemplate mandatory disclosure concerning compliance with their recommendations. Some of the key elements of governance guidelines and codes of best practice are summarized below. The summary has been structured so as to reflect a typical pattern of code of best corporate governance practices. Throughout the summary, the emphasis is placed upon board issues as a major concern of codes of best practices.

## DISCLOSURE ISSUES

Disclosure is an issue that is highly regulated under securities laws of many nations. However, there is room for voluntary disclosure by companies beyond what is mandated by law. Most countries generally agree on the need for directors to disclose their own relevant interests and to disclose financial performance in an annual report to shareholders. Generally this is required by law, but some guidelines and best practice documents address it as well. Similarly, even though directors are usually subject to legal requirements concerning the accuracy of disclosed information, a number of codes from both developed and developing nations describe the board's responsibility to disclose accurate information about the financial performance of the company, as well as information about agenda items, prior to the annual general meeting of shareholders. Generally, guidelines and codes of best practice place heavy emphasis on the financial reporting obligations of the board, as well as board oversight of the audit function. Again, this is because these are key to investor confidence and the integrity of markets. South Africa lays out the key points that the directors must comment on, whereas other countries do not go to this level of detail, but the distinction is not necessarily substantive since disclosure tends to be heavily regulated in many nations through securities laws.

## THE CORPORATE OBJECTIVE

Variations in societal values lead different nations to view the corporate objective or "mission" distinctly. Expectations of how the corporation should prioritize the interests of shareholders and stakeholders such as employees, creditors and other constituents take two primary forms. In the Anglo-Saxon nations -- Australia, Canada, the U.K., and U.S. -- **maximizing the value of the owners' investment** is considered the primary corporate objective. This objective is reflected in governance guidelines and codes that emphasize the duty of the board to represent shareholders' interests and maximize shareholder value. Among developing nations, the Brazilian Institute of Corporate Governance Code, the Confederation of Indian Industry Code, and the Malaysian Report on Corporate Governance, all expressly recognize that the board's mission is **to protect and enhance the shareholders' investment**.
*The mission of the board of directors is to maximize shareholder value.*[40] *The single overriding objective [of] all listed companies . . . is the preservation and enhancement over time of their shareholders' investment.*[41]

In other countries, more emphasis is placed on a broader range of stakeholders. There is a growing recognition that shareholder expectations need to be met in order to attract patient, low-cost capital. Likewise, there is growing sensitivity to the need to address stakeholder interests in order to maximize shareholder value over the long term. As the General Motors Board of Directors Mission Statement recognizes, "the board's responsibilities to shareholders as well as customers, employees, suppliers and the communities in which the corporation operates are all founded upon the successful perpetuation of the business." Simply put, shareholder and stakeholder interests in the success of the corporation are compatible in the long run.

## BOARD RESPONSIBILITIES & JOB DESCRIPTION

Most governance guidelines and codes of best practice assert that the board assumes responsibility for the stewardship of the corporation and emphasize that board responsibilities are distinct from management responsibilities. However, the guidelines and codes differ in the level of specificity with which they explain the board's role. For example, Canada's Dey Report, France's Vienot Report, Malaysia's Report on Corporate Governance, Mexico's Code of Corporate Governance and South Africa's King Report all specify board functions such as strategic planning; risk identification and management; selection, oversight and compensation of senior management; succession planning; communication with shareholders; integrity of financial controls; and general legal compliance, as distinct board functions. Other governance guidelines and codes of best practice are far less specific. For example, the Hong Kong Stock Exchange Code simply refers to directors' obligations to ensure compliance with listing rules as well as with the "declaration and undertaking" that directors are required to execute and lodge with the Exchange. The different approaches among codes on this point likely reflect variations in the degree to which company law or listing standards specify board responsibilities, rather than any significant substantive differences.

*The main functions of a board are. . . :*[42]

*• to direct the company both as to strategy and structure;*

*• to establish from time to time a strategy for the company, including a determination of the businesses that the company should be in and those that it should not be in;*

*• to ensure that the executive management implements the company's strategy as established from time to time;*

*• to ensure that the company has adequate systems of internal controls both operational and financial;*

*• to monitor the activities of the executive management;*

*• to select the chief executive, ensure succession and give guidance on the appointment of senior executives;*

*• to provide information on the activities of the company to those entitled to it;*

*• to ensure that the company operates ethically;*

*• to provide for succession of senior management;*

*• to address the adequacy of retirement and health care benefits and funding.*

## BOARD COMPOSITION

Most governance guidelines and codes of best practice address topics related to board composition including: director qualifications/membership criteria; the director nomination process; and board independence and leadership.

**Criteria**. The quality, experience and independence of a board's membership directly affects board performance. Board membership criteria are described by various guidelines and codes with different levels of specificity, but tend to highlight issues such as experience, personal characteristics (including independence), core code competencies and availability. *Every non-executive director must ensure that he can give sufficient time and attention to the affairs of the issuer ... and satisfy the Exchange that he has the character, integrity, experience and competency to serve as a director of a listed company.*[43] *The board should have a diversity of background, knowledge and experience.*[44] [Non-executive directors should] *know how to read a balance sheet, profit and loss account, cash flow statements and financial ratios, and have some knowledge of various company laws.*[45]

*[A] candidate should have integrity and independence of thought; the courage to express their independent thought; a grasp of the realities of business operations; an understanding of the changes taking place regionally, nationally and internationally; [and] an understanding of business and financial "language."*[46]

**Director Nomination.** The process by which directors are nominated has gained attention in many guidelines and codes, which tend to emphasize a formal and transparent process for appointing new directors. The use of nominating committees is favored in the U.S. and U.K. as a means of reducing the chief executive officer's influence in choosing the board that is charged with monitoring his or her performance. (See, in the U.S., the Report of the National Association of Corporate Directors Commission on Director Professionalism (1996), and the General Motors Board of Directors Guidelines (1994); in the U.K., the Hampel Committee Report (1998)). The Malaysian Corporate Governance Report expresses a similar view: “[T]he adoption of a formal procedure for appointments to the board, with a nomination committee making recommendations to the full board, should be recognized as good practice.” At the same time, however -- and as advocated by the King Report (South Africa) -- it is generally agreed that the board as a whole has the ultimate responsibility for nominating directors.

**Mix of Inside and Outside or "Independent" Directors.** Most governance guidelines and codes of best practice agree that some degree of director independence -- or the ability to exercise objective judgment of management's performance -- is important to a board's ability to exercise objective judgment concerning management performance. In the U.S., U.K., Canada and Australia, although not required by law or listing requirements, best practice recommendations generally agree that boards of publicly-traded corporations should include at least some independent directors. This viewpoint is the furthest developed in the U.S. and Canada, where best practice documents call for a "substantial" majority of the board to be comprised of independent directors. Elsewhere best practice recommendations are somewhat less stringent and seek to have a balance of executives and non-executives, with the non-executives including some truly independent directors. (Although "non-management" or "non-executive" directors may be more likely to be objective than members of management, many code documents recognize that a non-management director may still not be truly "independent" if he or she has significant financial or personal ties to management.) Nonetheless, a general consensus is developing throughout a number of countries that public company boards should include at least some non-executive members who lack significant family and business relationships with management. *The majority of the board members should be* independent*.*[47] *No board should have less than two non-executive directors of sufficient caliber that their views will carry significant weight in board decisions.*[48] *[I]t is recommended that Independent Directors represent at least 20% of the total number of Board members.*[49]

Definitions of “independence” vary. For example, according to the Brazilian Institute of Corporate Governance, a director is independent if he or she: has no link to the company besides board membership and share ownership and receives no compensation from the company other than director remuneration or shareholder dividends; has never been an employee of the company (or of an affiliate or subsidiary); provides no services or products to the company (and is not employed by a firm providing major services or products); and is not a close relative of any officer, manager or controlling shareholder. *Every listed company should have independent directors, i.e., directors that are not officers of the company; who are neither related to its officers nor represent concentrated or family holdings of its shares; who, in the view of the company’s board of directors, represent the interests of public shareholders, and are free of any relationship that would interfere with the exercise of independent judgment.”*[50] *In February 1998, the Korea Stock Exchange adopted a listing requirement that will mandate that outside directors soon comprise at least a quarter of the board of every listed company. Included among the list of persons who do not qualify as "outside directors" are: controlling shareholders; a spouse or family member of a director who is not an outsider; current or recent officers and employees of the corporation, its affiliates, or of corporations that have "important business relations" with the corporation; and persons who serve as outside directors on three or more listed companies.*[51]

In comparison, the Cadbury Code simply refers to directors who -- apart from their fees and shareholdings -- are independent from management and free from any business or other relationship, which could materially interfere with the exercise of independent judgment. And many of the best practice documents -- such as the Cadbury Report and the National Association of Corporate Directors Report on Director Professionalism (U.S.) -- view the ultimate determination of just what constitutes "independence" to be an issue for the board itself to determine.

**Independent Board Leadership.** Independent board leadership is thought by some to encourage the non-executive directors' ability to work together to provide true oversight of management. As explained by the National Association of Corporate Directors (U.S.): "the purpose of creating [an independent] leader is not to add another layer of power but . . . to ensure organization of, and accountability for, the thoughtful execution of certain critical independent functions" -- such as evaluating the chief executive officer (CEO); chairing sessions of the non-executive directors; setting the board agenda; and leading the board in responding to crisis.

Many guidelines and codes seek to institute independent leadership by recommending a clear division of responsibilities between Chairman and CEO. In this way, while the CEO can have a significant presence on the board, the non-executive directors will also have a formal independent leader to look to for authority on the board. Documents that place less emphasis on the need for a majority of independent directors seem to place more emphasis on the need for separating the role of Chairman and CEO. For example, the Indian Confederation Report expressly relates the two concepts -- recommending that if the Chairman and CEO (or managing director) are the same person, a greater percentage of non-executive directors is necessary. (Recommendation 2) The Malaysian Report on Corporate Governance similarly emphasizes that "[w]here the roles are combined there should be a strong independent element on the board." (Best Practice AA.II) This is in accord with the Cadbury Report, which states that, where the Chairman is also the CEO "it is essential that there should be a strong and independent element on the board." (Section 1.2)

## BOARD COMMITTEES

It is fairly well accepted that many board functions are carried out by board committees. For example, a *nominating committee*, an *audit committee* and a *remuneration committee* are recommended in Australia, Belgium, France, Japan, the Netherlands, Sweden, United Kingdom and the United States. While composition of these committees varies, it is generally recognized that non-executive directors have a special role. The functioning and composition of the audit committee receives significant attention in most guideline and code documents because of the key role it plays in protecting shareholder interests and promoting investor confidence. *Special emphasis has been placed on the need for all listed company boards to establish audit committees to ensure the effective and efficient control and review of a company's administration, internal audit procedures, the preparation of financial statements and the general disclosure of material information to investors and shareholders.*[52] *[There should be] a mechanism that lends support to the Board in verifying compliance of the audit function, assuring that internal and external audits are performed with the highest objectivity possible and that the financial information is useful, trustworthy and accurate.*[53]

Certain countries specifically recommend the size of an audit committee. In India, the minimum size recommended is three members, as it is in Malaysia and the United Kingdom. And South Africa and India both emphasize the extra time requirements demanded of audit committee members, and the importance of written terms of reference for this committee. Malaysia also refers to the need for written terms of reference for audit and other board committees.

## REMUNERATION

Remuneration typically consists of salary, performance bonus for surpassing the expected, and benefits. The amount of remuneration is to be determined by a remuneration committee. Criteria such as performance and a company's position among other companies should factor into the determination of all incentive schemes. *Companies should establish formal and transparent procedures for determining remuneration. No director should be involved in determining his or her* *own remuneration.*[54] *There should be a separate full and clear disclosure of the total of executive directors and non-executive directors' earnings broken down into headings such as fees, share options, benefits, bonuses, etc.*[55]

## ROLE OF SHAREHOLDERS

Shareholders have a responsibility to make considered use of their votes. Local institutional shareholder associations should formulate guidelines for the development of a constructive relationship between the company and the owner. Shareholders and the board communicate primarily through annual general meetings (AGM). Boards must employ a communications policy that enables management to communicate effectively with shareholders, stakeholders and the general public. This policy should interpret the company's policies to its shareholders and accommodate feedback from shareholders, which should be factored into a company's business decisions. *Companies should have a free hand to explain their governance policies in the light of the principles, and shareholders and others must evaluate the company's statement and explanations.*[56]

## FINANCIAL REPORTING/TRANSPARENCY & AUDIT

Most codes of best practices stipulate that the financial statements are the responsibility of the directors. The auditor is responsible for reporting on the financial statements. *… auditors, as watchdogs, have a duty to report breaches of the law and fraud; therefore, they should be afforded protection in defamation lawsuits, etc., if they acted without malice.*[57]

Transparency is one of the most important issues of corporate governance and therefore is given considerable attention in the codes of best practices throughout the world. *Companies must constantly strive for transparency.*[58] Transparency is reached by introducing procedures of internal control and appropriate accounting standards. Furthermore, the accounting standards used must be approved by the International Accounting Standards Committee. The board establishes formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the company's auditors. Auditor independence appears one of the key factors of transparency. *Not only should the auditors discharge their duties in total independence from personal interest or managerial interference, they should perform a regular review of their independence, along with their cost-effectiveness and objectivity.*[59]

## WORKER PARTICIPATION / EMPLOYMENT EQUITY

Workers - as distinct from management - should participate in the governance of affected corporations. Corporations should evolve their own system of worker participation whether by way of workers' committees or at management, executive committee or board level.

The influence of international capital markets will likely lead to some convergence of governance practices. *As regulatory barriers between national economies fall and global competition for capital increases, investment capital will follow the path to those corporations that have adopted efficient governance standards, which include acceptable accounting and disclosure standards, satisfactory investor protections and board practices designed to provide independent, accountable oversight of managers.*[60]

The above-mentioned guidelines, as well as the OECD Principles of Corporate Governance (although they need probably some further specification[61] ) and many other related codes have created a basis for implementation of a number of practical procedures, techniques, and patterns in business.

For hundreds of years the society has moved from vertical structures to horizontal ones. The same seems to happen with firms. Classical structure with top leaders and poorly motivated and uniformed employees is being withdrawn by more flat organizations, where all players should be not only properly motivated, but also well informed. This is one of the reasons for introduction of more transparency to internal business operations. In practice, one of the example may be so called "Open book management" (OBM)[62]. Every employee in an open-book company sees--and learns to understand--the company's financials, along with all the other numbers that are critical to tracking the business's performance. Ideally, everybody in the firm knows everything about its finances. Other examples of practical application of the guidelines may be property rights, conflict of interest policy, special labor standards, environmental policy, contract enforcement, consumer protection, bribery rules, approach to competition, information disclosure, science and technology policy, etc.

## CONCLUSIONS

The main message we should probably accept if we are to improve corporate governance is similar to the one valid generally, in the whole society. Namely, the optimal outcome of the system can be reached only if all players follow simple, enforceable and predictable rules of the game – if the transaction costs are minimal.

*If you do not take care of your property,*
*somebody else does.*
Slovak entrepreneur

The main problem in this respect seems to be the inherited passivity of general public. Namely, traditionally, the society has relied on the strong leaders, who were supposed to protect the rights of all the society members. There is absolute lack of initiative: creditors have never come with the proposed change in bankruptcy law, employees do not require legislative protection of their rights, business sector do not formulate proposals for improvement of the business environment, minority shareholders do not propose the change of their hopeless position, etc. Instead, all the parties almost exclusively complain of bad situation hoping that somebody will "show the light". Yes, the truth is that the government should take care of public goods and protection of property in the general sense is, in fact, a public good. However, the government will never do it without proper pressure from all stakeholders. And even if it did, the role of all other parties involved would be still crucial.

[31] Written by Eugen Jurzyca (INEKO) and Pavlo Shostak (AI NOVA).
[32] Stripping assets of a firm at the expense of some of its stakeholders, most often in favor of one of them.
[33] IVO, SOPK, EU: "Názory ekonomických elít na aktuálne otázky vývoja slovenskej ekonomiky".
[34] The Nature of the Firm, Ronald Coase , Economica 4, 1937.
[35] Presented at the CED seminar in Bratislava by David Frankel.

[36] Russell Reynolds: Summary in Governance, April/May 1999, issue 6729 Bristol Gardens, London, W92JQ
[37] http://www.ebr.org/
[38] Oliver E. Williamson and Scott E. Masten, The Economics of Transaction Costs, Edward Elgar Publishing, Ltd., UK, 1999.
[39] http://www.oecd.gov/
[40] Brazilian Institute of Corporate Governance Code of Best Practice at 1.
[41] Report on Corporate Governance (Malaysia), Introduction § 1, 3.3.
[42] The King Report (South Africa), Ch. 4:1.
[43] The Hong Kong Stock Exchange Code, Code of Best Practice 10 and Guideline A.5.
[44] The Brazilian Institute of Corporate Governance Code of Best Practice at 3.
[45] The Confederation of Indian Industry Code, Recommendation 4.
[46] The King Report (South Africa), Ch.9:8.2.
[47] Brazilian Institute of Corporate Governance Code of Best Practice at 3.
[48] The King Report (South Africa) 2.2.
[49] Mexico Code of Corporate Governance, Principle at 6.
[50] Malaysian Report on Corporate Governance, Explanatory Note 4.23.
[51] Article 48-5 KSE Listing Regulation.
[52] President's Message, Stock Exchange of Thailand Code and Guidelines, pp. iv-v.
[53] Mexico Code of Corporate Governance, Recommendation at 12-13.
[54] London Stock Exchange: The Combined Code. United Kingdom.
[55] The Code of Corporate practices and Conduct.(King Report). South Africa.
[56] London Stock Exchange: The Combined Code. United Kingdom.
[57] The Malaysian Code of Corporate Governance.
[58] The Code of Corporate practices and Conduct.(King Report). South Africa.
[59] London Stock Exchange: The Combined Code. United Kingdom.
[60] Report to the OECD by the Business Sector Advisory Group on Corporate Governance (April 1998) (the Millstein Report).
[61] John. D. Sullivan, Center for International Private Enterprise: Corporate Governance: Transparency between government and business, presented to the World Bank meeting in Cairo, Egypt, on March 7, 2000.